

UNITED STATES OF DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARTYR JEAN-BAPTISTE MEDA,

Plaintiff,
-against-

Index No. 17-cv-6853-LGS

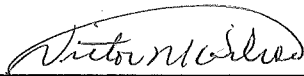
DER KOGDA, MARIE-CLAIRE SOMDA-
KOGDA, CLARISSE KOGDA
Defendants.

NOTICE OF MOTION

PLEASE TAKE NOTICE that annexed motion of Victor M. Wilson, Esq. filed on February 9, 2018 and the papers annexed thereto, the undersigned will move this Court, on the 1st day of March 2018 at 10:30 AM in the forenoon of that date, or as soon thereafter as counsel may be heard, for an order granting the following relief:

1. Dismissing the complaint against co-defendant Clarisse Koda (a/k/a Kogda)
2. Such other and further relief as to the Court may seem just and equitable.

Respectfully submitted,



Victor M. Wilson, Esq.
1363 Eastern Parkway, Ste 1
Brooklyn, New York 11233
Tel.: (718) 773-7442; Fax (718) 773-8219
Email: vmwesq1@aol.com

UNITED STATES OF DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MARTYR JEAN-BAPTISTE MEDA,

Plaintiff,
-against-

No. 17-cv-6853-LGS

DER KOGDA, MARIE-CLAIRE SOMDA-
KOGDA, and CLARISSE KOGDA
Defendants.

MOTION TO DISMISS
COMPLAINT

-----X

Victor M. Wilson, Esq., hereby moves this court pursuant to Rules 7(b) and 11 of the Federal Rules of Civil Procedure for an order dismissing the complaint against co-defendant Clarisse Koda (hereafter referred to as Clarisse) for lack of personal jurisdiction and for failure to state a cause of action against said co-defendant upon which relief can be granted.

1. This case was brought by plaintiff against co-defendants stemming from alleged violation of human trafficking, involuntary servitude, and maltreatment while employed at the residence of the mission of Burkina Faso in New York.

2. Co-defendant Clarisse Koda was also employed by Der Kogda as a maid in the residence. Her duties were to clean up the premises, wash the family's clothes, and clean the kitchen after meals while Plaintiff was hired to cook the family's meals.

3. Due to their constant interaction in the kitchen alone, Plaintiff, upon information and belief, apparently grasped the opportunity to make the alleged sexual advances towards.

4. As alleged in her answer, plaintiff's conduct were intentional and offensive towards her.

5. Additionally, plaintiff's process server never served her with the summons and complaint. Instead, the process server reportedly hand-delivered the summons and complaint to co-defendant Der Koda's daughter at 177East 122nd Street, New York, New York.

6. Defendant Clarisse never resided at that address and neither did co-defendants Der Kogda and his wife.

7. The daughter, Emmanuela Kogda, informed me that she was given only two sets of papers for her parents at the above mentioned address. On the date of the alleged service of process, co-defendants Der Kogda and his wife had relocated to their native country of Burkina Faso.

8. Co-defendant Clarisse stated in her affirmative defense that she never hit Plaintiff at any time at the residence but that plaintiff had been sexually harassing her several times by rubbing himself on her and putting his hand on her behind in an offensive manner, despite her continued rebuffs.

9. She reportedly complained to co-defendant Der Kogda who gave him verbal warnings and instructed her to stay away from the kitchen if no one else is around.

10. Due to his inability to satisfactorily prepare African dishes, Clarisse use to also repair meals for the family as the house maid while plaintiff would lounge in the living room couch as seen in Exhibit "A".

11. Consequently, Der Kogda gave plaintiff a warning letter dated April 11, 2014 outlining his persistent job deficiencies and conduct. (See Exhibit "B").

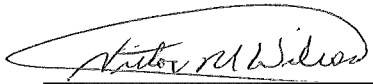
12. Clearly, Clarisse, although having tried to help Plaintiff (her country man from the same Dagara ethnic group) to cook African dishes such as the "tot" which is

palatable to their ethnic group, Plaintiff went too far by making his frequent sexual advances towards her.

13. Clarisse was not the employer, she was also an employee of Der Kogda as shown in the copy of the attached annotation of her Visa marked Exhibit "C".

WHEREFORE, for both procedural and substantive reasons, I respectfully request that the complaint against co-defendant Clarisse Kogda be dismissed entirely with prejudice, for costs, and for any other relief that this court deems just and proper.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Victor M. Wilson", is written over a horizontal line.

Victor M. Wilson, Esq.
Attorney for Clarisse Koda
1363 Eastern Parkway, Ste 1
Brooklyn, New York 11233
Tel: (718) 773-7442; Fax (718) 8219
Email: vmwesq1@aol.com

Exhibit “A”





Exhibit “B”



BURKINA FASO
Unité - Progrès - Justice

CONFIDENTIEL

Mission Permanente
auprès des Nations Unies

N° 14.261 /MFBF /RP/ac

New York le APR 11 2014

V/Réf.

Objet : Insuffisance de rendement au travail.

Monsieur,

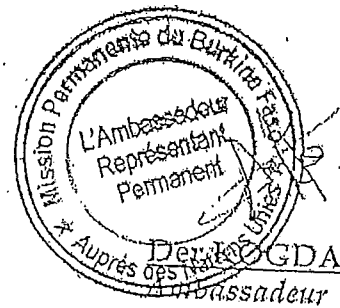
Il a été donné de constater que depuis votre prise de travail en décembre 2013, en tant employé de maison, vos compétences laissent à désirer.

Ainsi, contrairement à vos qualifications mentionnées dans votre curriculum vitae et qui ont motivées votre recrutement, de nombreuses lacunes ont été relevées dans vos différentes prestations, notamment :

- la non maîtrise de la préparation de repas ordinaires,
- les tâtonnements dans les mises et dressages de table et autres services de maison,
- la mauvaise gestion du stock alimentaire,
- le manque de précaution dans l'utilisation du matériel de cuisine,
- la négligence et le manque d'attention à certaines tâches (rangement, entretien et conservation),

- le manque d'attention et de prise en compte des instructions et conseils prodigués,
- la manifestation d'une incapacité physique à exécuter le travail.

Au regard de cette situation, et tenant compte des nombreuses mises en garde verbales qui n'ont pu apporter aucune amélioration notable, il vous est adressé cet avertissement écrit en guise de préavis de toute sanction qui pourrait être prise en cas de persistance de ces insuffisances.



Ambassadeur
Représentant Permanent

Monsieur Jean Baptiste Martyr MEDA
Employé de Maison à la Résidence
NEW YORK

Ampliations :

- Trésorier
- Dossier intéressé

BURKINA FASO
Unity – Progress – Justice

CONFIDENTIAL

*Permanent Mission
to the United Nations*

No. 14.261 /MPBF /RP/ac

New York, **APRIL 11, 2014**

Your ref.

Subject: Insufficient work performance.

Dear Sir,

It has been found that since your start of employment in December, as a house employee, your skills leave something to be desired.

Therefore, contrary to your qualifications as indicated in your curriculum vitae and which motivated your recruitment, there have been many gaps noted in the provision of your services, including the following:

- the lack of mastery in preparation of regular meals,
- the fumbling in serving and setting the table and other house services,
- the poor management of the food inventory,
- the lack of caution in the use of kitchen equipment,
- the negligence and lack of attention to certain tasks (storage, maintenance and conservation),

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866 United Nations Plaza First Avenue, Suite 326/327A, New York, N.Y. 10017
Telephone: (1) 212-308-4720/21 – Fax: (1) 212-308-4690 – Email: bfapm@un.int – Website: www.burkina-onu.org

- the lack of attention to and failure to take instructions and advice that were provided into consideration,
- the manifestation of a physical inability to execute the work.

In view of this situation, and taking into account the multiple verbal warnings, which have not resulted in any notable improvement, you are being given this written warning as an advance warning of any sanction that may be taken in case of persistence of these insufficiencies.

[Round stamp]

Permanent Mission of Burkina Faso
Ambassador, Permanent
Representative
to the United Nations

[Signature]

Der KOGDA
*Ambassador, Permanent
Representative*

Mr. Jean Baptiste Martyr MEDA
House employee at the Residence
NEW YORK

Copy to:

- Treasurer
- Employee's file



BURKINA FASO
Unité - Progrès - Justice

CONFIDENTIEL

Mission Permanente
auprès des Nations Unies

N° 14.358 /MPBF/IRP/ac

New York, le MAY 13 2014

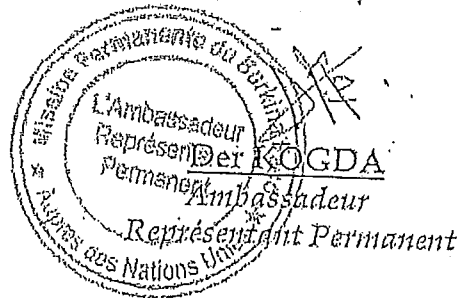
V/Réf.

Objet : Licenciement.

Monsieur,

En référence à ma lettre d'avertissement N°14.261/MPBF/RP/ac du 11 avril 2014, et vue la persistance de sérieuses insuffisances professionnelles et d'écarts de comportement incompatibles avec le travail, j'ai le regret de vous notifier la rupture de votre contrat, avec un préavis d'un (1) mois à compter du 15 mai 2014.

A l'issue de ce préavis, le 15 juin 2014, une indemnité de licenciement proportionnelle à votre période effective de travail et votre billet d'avion retour au Burkina Faso, vous seront servis.



Monsieur Jean Baptiste Martyr MEDA
Employé de Maison à la Résidence
NEW YORK

Ampliation :

- Trésorier

BURKINA FASO
Unity – Progress – Justice

CONFIDENTIAL

*Permanent Mission
to the United Nations*

No. 14.358 /MPBF /RP/ac

New York, **MAY 13, 2014**

Your ref.

Subject: Dismissal.

Dear Sir,

In reference to my warning letter no. 14.261/MPBF/RP/ac dated April 11, 2014, and considering the persistence of serious professional shortcomings and behavioral differences that are incompatible with the work, I regret to inform you of the termination of your contract, with a notice of one (1) month, starting on May 15, 2014.

As of the issuance of this notice, on June 15, 2014, severance pay in proportion to your effective period of work and your return airline ticket to Burkina Faso are being given to you.

[Round stamp]

Permanent Mission of Burkina Faso
Ambassador, Permanent
Representative
to the United Nations

[Signature]

Der KOGDA
***Ambassador, Permanent
Representative***

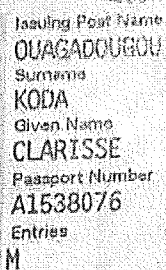
Mr. Jean Baptiste Martyr MEDA
House employee at the Residence
NEW YORK

Copy to:
- Treasurer

1

866 United Nations Plaza First Avenue, Suite 326/327A, New York, N.Y. 10017
Telephone: (1) 212-308-4720/21 – Fax: (1) 212-308-4690 – Email: bfapm@un.int – Website: www.burkina-onu.org

Exhibit "C"



Control Number
20112685782001

View Type / Class
R 65

Sex
1

Birth Date
26AUG1973

Nationality
BURK

Expiration Date
21SEP2013

1010

Annotation
PERSONAL EMPLOYEE OF AMBASSADOR
DER KOGDA
JOINING POST IN NEW YORK

08665128

VNUSAKODA<<CLARISSE<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<
A1538076<OBFA7308266F1309216G50UG00E3H462135

03/10/18

Travel History I-94



U.S. Customs and Border Protection

Serving America's Borders

03/10/18 10:11:11 AM
KODAK, CLARISSE

Most Recent I-94

Admission (I-94) Record Number: 06230429427

Most Recent Date of Entry: 2012 September 17

Class of Admission: G5

Admit Until Date: 2015 September 16

Details provided on the I-94 Information form:

Last/Surname: KODA

First (Given) Name: CLARISSE

Birth Date: 1973 August 26

Passport Number: A1538076

Country of Issuance: Burkina Faso

[Get Travel History](#)

- Effective April 26, 2013, DHS began automating the admission process. An alien lawfully admitted or paroled into the U.S. is no longer required to be in possession of a preprinted Form I-94. A record of admission printed from the CBP website constitutes a lawful record of admission. See 8 CFR § 1.4(d).
- If an employer, local, state or federal agency requests admission information, present your admission (I-94) number along with any additional required documents requested by that employer or agency.
- **Note:** For security reasons, we recommend that you close your browser after you have finished retrieving your I-94 number.

For inquiries or questions regarding your I-94, please contact us.

[Accessibility \(Privacy Policy\)](#)